

Exhibit 23

Zsolt Herczegh

February 12, 2014

London, UK

Page 1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 U.S. SECURITIES AND EXCHANGE :
COMMISSION, :
4 :
Plaintiff, :
5 :
vs. : No.11 Civ.9645
6 : (RJS)
ELEK STRAUB, :
7 ANDRÁS BALOGH, and :
TAMÁS MORVAI, :
8 :
Defendants. :

9
10
11
12 VIDEOTAPED DEPOSITION UPON ORAL EXAMINATION
OF
13 ZSOLT HERCZEGH
14
on

15
Wednesday, February 12, 2014
16 commencing at 9.59 a.m.
17 Taken at:
Nabarro LLP
18 Lacon House
84 Theobald's Road
19 London, WC1X 8RW
United Kingdom

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22
23
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25 Reported by: Thelma Harries, MBIVR, ACR

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<p>1 Q So is Exhibit 45 the -- the signed</p> <p>2 version of the draft that you had been working on</p> <p>3 and you testified about in the prior exhibits?</p> <p>4 A Yes. This is the fully signed</p> <p>5 version.</p> <p>6 Q And this is the signed version you</p> <p>7 saw for the first time in 2007, is that right?</p> <p>8 A As I recall, yes.</p> <p>9 Q If you look at the first page of</p> <p>10 Exhibit 45, and it says concluded on May 1st, 2005.</p> <p>11 Do you see that?</p> <p>12 A Yes, I see that.</p> <p>13 Q Do you know who added that date to</p> <p>14 the agreement?</p> <p>15 A No.</p> <p>16 Q And then, if you look at page 6 of</p> <p>17 Exhibit 45, it says, "In witness whereof the</p> <p>18 authorised representative of the Parties hereto</p> <p>19 have set their hand on May 1st, 2005". Do you see</p> <p>20 that?</p> <p>21 A I see that.</p> <p>22 Q Do you know who added that date?</p> <p>23 A No.</p> <p>24 Q Do you know why the May 1st, 2005,</p> <p>25 date was selected?</p>	<p>1 --</p> <p>2 A No.</p> <p>3 Q Other than discussions we've</p> <p>4 previously testified about during the drafting?</p> <p>5 A No, I didn't had other discussions.</p> <p>6 Q Okay. And the third signature is</p> <p>7 Mr. Mihail Kefaloyannis?</p> <p>8 A I see that.</p> <p>9 Q For Chaptex Holdings Limited. Did</p> <p>10 Mr. Kefaloyannis discuss the agreement with you</p> <p>11 before he signed it?</p> <p>12 A No.</p> <p>13 Q So, you testified earlier that, after</p> <p>14 you were instructed by Mr. Balogh on July 12th to</p> <p>15 begin work on the -- the subsequent agreements, you</p> <p>16 began working on them, is that right?</p> <p>17 A Yes.</p> <p>18 MR. DODGE: I'm handing you a</p> <p>19 document that's been marked Exhibit 98.</p> <p>20 Exhibit 98 is a 2-page document Bates</p> <p>21 Number MT-MAK 8355 and 8355-T. The first page is</p> <p>22 a series of e-mail messages dated July 12th, 2005.</p> <p>23 The first page is in Hungarian and the second page</p> <p>24 appears to be an English language translation of</p> <p>25 the first page.</p>
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<p>1 A No.</p> <p>2 Q Based on your involvement in</p> <p>3 preparing this consultancy agreement, could it have</p> <p>4 been signed on May 1st, 2005?</p> <p>5 A No.</p> <p>6 Q Take a look at the names of the</p> <p>7 people who signed the agreement. I'm looking at</p> <p>8 page 6 of Exhibit 45. There's the name Mr. Rolf</p> <p>9 Plath, P-l-a-t-h.</p> <p>10 A I see that.</p> <p>11 Q Who was he?</p> <p>12 A My understanding was that he is the</p> <p>13 CFO of MakTel at that time.</p> <p>14 Q CFO stands for Chief Financial</p> <p>15 Officer?</p> <p>16 A Chief Financial Officer, yes.</p> <p>17 Q Did Mr. Plath ever discuss this</p> <p>18 frequency fee agreement with you before he signed</p> <p>19 it?</p> <p>20 A No.</p> <p>21 Q There's also a signature from</p> <p>22 Mr. Attila Szendrei. Do you see that?</p> <p>23 A I see that.</p> <p>24 Q Did Mr. Szendrei discuss the -- this</p> <p>25 agreement with you before he signed it, other than</p>	<p>1 (Exhibit Plaintiff's 98 marked for</p> <p>2 identification)</p> <p>3 BY MR. DODGE:</p> <p>4 Q Mr. Herczegh, have you seen</p> <p>5 Exhibit 98, please? Have you seen it before?</p> <p>6 A Yes.</p> <p>7 Q Will you take a look at the English</p> <p>8 and Hungarian and tell me whether the English</p> <p>9 appears to be an accurate translation of what's</p> <p>10 written in the Hungarian?</p> <p>11 A (Witness reviewed the documents)</p> <p>12 Yes, it seems to be a correct translation.</p> <p>13 Q And is Exhibit 98 an e-mail that you</p> <p>14 sent to Mr. Vaczlavik on July 12th, 2005?</p> <p>15 A Yes.</p> <p>16 Q Why did you send this e-mail to</p> <p>17 Mr. Vaczlavik?</p> <p>18 A It is a follow-up e-mail, and the</p> <p>19 reason is that I'm asking for information and</p> <p>20 details to finalise the other draft agreements.</p> <p>21 Q Do you recall whether Mr. Vaczlavik</p> <p>22 responded to you?</p> <p>23 A My recollection is that, that</p> <p>24 I received an answer for more detailed information</p> <p>25 in the second part of August 2005.</p>

22 (Pages 82 to 85)

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<p style="text-align: right;">Page 86</p> <p>1 MR. DODGE: I'm handing you a</p> <p>2 document that's been marked Exhibit Number 99.</p> <p>3 Exhibit 99 is a 2-page document. The</p> <p>4 first page appears to be an e-mail message written</p> <p>5 partially in English and partially in Hungarian.</p> <p>6 And the second page appears to be an English</p> <p>7 language translation of the first page.</p> <p>8 (Exhibit Plaintiff's 99 marked for</p> <p>9 identification)</p> <p>10 BY MR. DODGE:</p> <p>11 Q Have you seen Exhibit 99 before?</p> <p>12 A Yes.</p> <p>13 Q And what is it?</p> <p>14 A It is a -- it is an e-mail sent from</p> <p>15 Mr. Vaczlavik to me about the details of two other</p> <p>16 agreements, namely, agreements covering</p> <p>17 e-communication and its by-laws related activities</p> <p>18 and --</p> <p>19 Q And -- sorry.</p> <p>20 A -- and labour law activities. It</p> <p>21 contains the details of the advisory tasks, plus</p> <p>22 the performance deadlines, plus the success fee</p> <p>23 element or rate.</p> <p>24 It also refers to that fact that</p> <p>25 other elements of the consultancy previously given,</p>	<p style="text-align: right;">Page 88</p> <p>1 the document provision must have been made in a</p> <p>2 paper form. So, therefore, I started to retype the</p> <p>3 e-mail to provide the necessary information for the</p> <p>4 internal investigation.</p> <p>5 Q Okay. So am I correct in</p> <p>6 understanding that, instead of simply printing out</p> <p>7 the e-mail from your computer system, which was</p> <p>8 impossible, you retyped the -- the substance of the</p> <p>9 e-mail?</p> <p>10 A I retyped the e-mail.</p> <p>11 Q Okay. And when you retyped the</p> <p>12 e-mail, did you retype it exactly as it appeared in</p> <p>13 the original?</p> <p>14 A Yes.</p> <p>15 Q And if you -- the original e-mail was</p> <p>16 in combination of Hungarian and English, is that</p> <p>17 right?</p> <p>18 A Yes.</p> <p>19 Q And if you look at the second page,</p> <p>20 the English translation, does that appear to be an</p> <p>21 accurate translation of the portions that were</p> <p>22 originally in Hungarian?</p> <p>23 A (Witness reviewed the documents)</p> <p>24 Other than a typo I see, it seems to be a correct</p> <p>25 translation.</p>
<p style="text-align: right;">Page 87</p> <p>1 i.e. given in early July, should be disregarded.</p> <p>2 Q Okay. Is the e-mail in Exhibit 99</p> <p>3 Mr. Vaczlavik's response to the question that you</p> <p>4 asked of him in Exhibit 98?</p> <p>5 A Yes.</p> <p>6 Q On the first page of Exhibit 99, at</p> <p>7 the very top of the page, is a notation in</p> <p>8 brackets. It says,</p> <p>9 "[The original e-mail was re-typed,</p> <p>10 since the e-mail was sent confidentially (i.e the</p> <p>11 system does not allow to execute instructions like</p> <p>12 copying, printing, forwarding, etc.)]"</p> <p>13 Did you write that?</p> <p>14 A Yes.</p> <p>15 Q And what did you mean?</p> <p>16 A I produced this document during the</p> <p>17 internal investigation at Magyar Telekom. The</p> <p>18 company, including they received document requests</p> <p>19 from White & Case who conducted -- which company</p> <p>20 conducted the internal investigation, to produce</p> <p>21 consultancy activities related documents.</p> <p>22 And, since I received this e-mail by</p> <p>23 Mr. -- sent by Mr. Vaczlavik as a confidential</p> <p>24 e-mail in the Lotus notes system, the system didn't</p> <p>25 allow me to copy, to print, to forward at all, but</p>	<p style="text-align: right;">Page 89</p> <p>1 Q And where is the typo?</p> <p>2 A In the first -- middle of the first</p> <p>3 paragraph; "should".</p> <p>4 Q Oh, I see. The word "should", on the</p> <p>5 second line of the first paragraph? Is that what</p> <p>6 you're --</p> <p>7 A Yes.</p> <p>8 Q -- pointing to? And it's spelt</p> <p>9 s-h-o-u-d-l instead of s-h-o-u-l-d?</p> <p>10 A Yes.</p> <p>11 Q Otherwise, it looks like an accurate</p> <p>12 translation?</p> <p>13 A It looks like an accurate</p> <p>14 translation.</p> <p>15 Q Okay. So I'll be asking you</p> <p>16 questions from the English translation because</p> <p>17 I can't read Hungarian.</p> <p>18 And if you look at the -- under</p> <p>19 agreement number 1, and then it says Tasks, and the</p> <p>20 tasks are numbered 1 and 2. Do you see that?</p> <p>21 A I see that.</p> <p>22 Q And under task number 2, it gives a</p> <p>23 deadline. Do you see that?</p> <p>24 A I see the deadline, yes.</p> <p>25 Q And the deadline is July 31st, 2005,</p>

23 (Pages 86 to 89)

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<p>1 is that right?</p> <p>2 A Yes.</p> <p>3 Q And is it correct that July 31st,</p> <p>4 2005, was earlier than the date of the e-mail from</p> <p>5 Mr. Vaczlavik?</p> <p>6 A Yes.</p> <p>7 Q And under agreement number 2, it also</p> <p>8 has tasks number 1 and 2, and there are deadlines</p> <p>9 associated with those tasks as well. Do you see</p> <p>10 those?</p> <p>11 A I see those.</p> <p>12 Q And those deadlines are August 15th,</p> <p>13 2005, is that right?</p> <p>14 A Yes.</p> <p>15 Q And August 15th, 2005 was also prior</p> <p>16 to the date of Mr. Vaczlavik's e-mail to you, is</p> <p>17 that right?</p> <p>18 A Yes.</p> <p>19 Q Do you know how Mr. Vaczlavik came up</p> <p>20 with these dates, July 31st and August 15th?</p> <p>21 A I just have a general understanding</p> <p>22 that it was discussed in the background, but</p> <p>23 I don't know the details for this.</p> <p>24 Q When you say it was discussed in the</p> <p>25 background, does that mean it was discussed with</p>	<p>1 Exhibit 100 appears to be a 10 or</p> <p>2 15-page document, Bates Number MT-MAK 8357, the</p> <p>3 next page 8357-T, and the last page MT-MAK 8367-T.</p> <p>4 The first page appears to be an</p> <p>5 e-mail message from Mr. Zsolt Herczegh to Mr.</p> <p>6 András Balogh, Ferenc Vaczlavik, with copies to</p> <p>7 Péter Dankó, Zoltán Kisjuhász. The first page is</p> <p>8 written in Hungarian with indications of two</p> <p>9 attachments. The second page appears to be an</p> <p>10 English language translation of the first page.</p> <p>11 And then the following pages of Exhibit 100 appear</p> <p>12 to be attachments to the e-mail, they look two</p> <p>13 documents both labelled consultancy agreement, the</p> <p>14 first one beginning on 8358-T and the second one</p> <p>15 beginning on page 8363-T.</p> <p>16 (Exhibit Plaintiff's 100 marked for</p> <p>17 identification)</p> <p>18 BY MR. DODGE:</p> <p>19 Q Mr. Herczegh, have you ever seen</p> <p>20 Exhibit 100 before?</p> <p>21 A Yes.</p> <p>22 Q Can you tell me what it is, please?</p> <p>23 A I have prepared these attachments and</p> <p>24 the e-mail sent out to Mr. Balogh and</p> <p>25 Mr. Vaczlavik, and I'm sending the new draft</p>
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<p>1 you or it was discussed outside your presence?</p> <p>2 A Discussed by others, not with me.</p> <p>3 Q Do you see any reference in</p> <p>4 Mr. Vaczlavik's e-mail in Exhibit 99 of the amounts</p> <p>5 to be paid under the two contracts?</p> <p>6 A No.</p> <p>7 Q Did you ever receive that</p> <p>8 information?</p> <p>9 A My recollection is that I received</p> <p>10 verbine(?) information regarding the consultancy</p> <p>11 amounts.</p> <p>12 Q Who did you receive that from?</p> <p>13 A Most probably from Mr. Vaczlavik.</p> <p>14 Q And do you have a recollection as to</p> <p>15 when you received that information?</p> <p>16 A My recollection is that it was around</p> <p>17 the end of August.</p> <p>18 Q 2005?</p> <p>19 A 2005.</p> <p>20 Q After you received Mr. Vaczlavik's</p> <p>21 e-mail, Exhibit 99, what did you do?</p> <p>22 A I started to prepare the draft</p> <p>23 agreements.</p> <p>24 MR. DODGE: I'm handing you</p> <p>25 a document that's been marked Exhibit 100.</p>	<p>1 documents covering the electronic communications</p> <p>2 activities and the labour law activities to be</p> <p>3 concluded between MakTel and Chaptex.</p> <p>4 Q If you look at the first page of</p> <p>5 Exhibit 100 and the second page, can you tell me</p> <p>6 whether the English language translation appears to</p> <p>7 be an accurate translation of the original</p> <p>8 Hungarian?</p> <p>9 A (Witness reviewed the documents) It</p> <p>10 seems to be an accurate translation. I just</p> <p>11 spotted two minor typos in the name of Mr. Ferenc</p> <p>12 Vaczlavik. The English says Ferencz. The</p> <p>13 Hungarian says Ferenc. But it's not material.</p> <p>14 Q Okay. So the first --</p> <p>15 Mr. Vaczlavik's first name is misspelled in the</p> <p>16 translation, is that right?</p> <p>17 A Misspelled in translation, yes.</p> <p>18 Q And what's -- what's the other</p> <p>19 correction you have?</p> <p>20 A In the e-mail address and in the</p> <p>21 starting, "Dear András and Ferencz".</p> <p>22 Q Oh, okay. So it's his first name is</p> <p>23 misspelled twice?</p> <p>24 A Yes.</p> <p>25 Q Other those misspellings, does the</p>

24 (Pages 90 to 93)

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<p>1 translation appear to be accurate to you?</p> <p>2 A It appears to be accurate.</p> <p>3 Q And is the first -- is Exhibit 100,</p> <p>4 apart from the translation, in fact a copy of the</p> <p>5 e-mail that -- that you sent to Mr. Balogh and</p> <p>6 Mr. Vaczlavik on or about August 23rd, 2005?</p> <p>7 A Yes.</p> <p>8 Q And you said that the two attachments</p> <p>9 are documents that you prepared, is that right?</p> <p>10 A Yes.</p> <p>11 Q Turning your attention to the labour</p> <p>12 law agreement, and page number MT-MAK 8361. And if</p> <p>13 we look at the -- where it says Schedule 1 on the</p> <p>14 left, The Services. Are you with me on the right</p> <p>15 page?</p> <p>16 A (No response)</p> <p>17 Q Do you see in the first paragraph at</p> <p>18 the end it says deadline 15 August, 2005? Do you</p> <p>19 see that?</p> <p>20 A I see that.</p> <p>21 Q And then the same thing in the -- at</p> <p>22 the end of the second paragraph, deadline 15</p> <p>23 August, 2005?</p> <p>24 A I see that.</p> <p>25 Q Is it correct that that date,</p>	<p>1 agreement was prepared; the agreements were</p> <p>2 prepared?</p> <p>3 A I do not recall discussion with</p> <p>4 Mr. Balogh on this.</p> <p>5 Q Okay. Did you have any discussions</p> <p>6 with anyone, anyone who was on this e-mail,</p> <p>7 Mr. Balogh, Mr. Vaczlavik, Mr. Dankó,</p> <p>8 Mr. Kisjuhász, about the fact that performance</p> <p>9 dates were earlier than the preparation of the</p> <p>10 contracts?</p> <p>11 A I recall that I had discussions with</p> <p>12 Mr. Vaczlavik around the end of August about this</p> <p>13 topic.</p> <p>14 Q Okay. And tell me what you said to</p> <p>15 Mr. Vaczlavik and tell me what Mr. Vaczlavik said</p> <p>16 to you?</p> <p>17 A I don't have exactly a recollection</p> <p>18 on this.</p> <p>19 Q What's your general recollection?</p> <p>20 A I had to finish the draft documents</p> <p>21 and requested the information from him how to</p> <p>22 finalise it, what to put in there.</p> <p>23 Q And do you have any general</p> <p>24 recollection about what you said to Mr. Vaczlavik</p> <p>25 and what Mr. Vaczlavik said to you?</p>
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<p>1 15th August, is approximately 8 days earlier than</p> <p>2 the date of your e-mail?</p> <p>3 A Yes, it's correct.</p> <p>4 Q And if I direct your attention to the</p> <p>5 second agreement involving the e-commerce law on</p> <p>6 page MT-MAK 8366? This is the second to last page</p> <p>7 of Exhibit 100. Under Schedule 1, The Services,</p> <p>8 there are three numbered paragraphs. Do you see</p> <p>9 that?</p> <p>10 A I see that.</p> <p>11 Q And at the end of each of those</p> <p>12 paragraphs is a parenthetical with a deadline, and</p> <p>13 in each case it says deadline 31st July, 2005, is</p> <p>14 that right?</p> <p>15 A I see that. That's right.</p> <p>16 Q Those are the deadlines that you</p> <p>17 entered into the document, is that right?</p> <p>18 A Yes.</p> <p>19 Q And is it -- is it correct that on</p> <p>20 July 31st, 2005, it was approximately 23 days</p> <p>21 earlier than the date of your e-mail?</p> <p>22 A Yes.</p> <p>23 Q Did you ever discuss with Mr. Balogh</p> <p>24 why the deadlines for performance for both</p> <p>25 agreements were earlier than the date that the</p>	<p>1 A No.</p> <p>2 Q Did you have any discussions with</p> <p>3 Mr. Dankó around this time on that subject?</p> <p>4 A Later on, yes.</p> <p>5 Q When -- tell me about that. When --</p> <p>6 approximately when did you speak to Mr. Dankó?</p> <p>7 A On or about the 31st August.</p> <p>8 Q And tell me what you recall of that</p> <p>9 conversation; what you said to Mr. Dankó and what</p> <p>10 Mr. Dankó said to you?</p> <p>11 A I do not have a crystal clear</p> <p>12 recollection on this. I raised my concerns about</p> <p>13 dating of the draft agreements.</p> <p>14 Q Okay. During this time period in</p> <p>15 late August 2005, what concerns are you referring</p> <p>16 to?</p> <p>17 A At the very end of August, I got an</p> <p>18 instruction to change the contracting parties from</p> <p>19 MakTel to StoneBridge. That was one big change.</p> <p>20 And also I got the instruction about dating of the</p> <p>21 agreements.</p> <p>22 So these two issues raised concerns</p> <p>23 in me, and I felt discomfort, especially about the</p> <p>24 date and handling agreements in this way.</p> <p>25 Q And do you recall anything about how</p>

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<p>1 you expressed those concerns to Mr. Dankó or anyone 2 else?</p> <p>3 A My recollection is that it was 4 a verbal conversation.</p> <p>5 Q Okay. And do you have any 6 recollection at all about what you may have said to 7 Mr. Dankó?</p> <p>8 A I -- I do not have specific 9 recollection. I have a memory of raising the 10 issue.</p> <p>11 Q Okay. Do you have any recollection 12 at all about what Mr. Dankó said to you in 13 response?</p> <p>14 A No.</p> <p>15 Q Do you have any recollection as to 16 how you felt after speaking to Mr. Dankó? Were you 17 reassured or were you still concerned?</p> <p>18 A I don't have specific recollection on 19 this but, at the very end of August, I sent out 20 from my e-mail account the redrafted versions of 21 the agreements.</p> <p>22 Q Now, I asked you how you felt, and 23 you told me what you did. Does that answer my 24 question?</p> <p>25 MR. SULLIVAN: Objection to form.</p>	<p>1 the e-com and by-laws agreement. And, again, on 2 the left side of the page, under the heading 3 Remuneration, in the second to last paragraph 4 numbered 5.1, do you see that?</p> <p>5 A I see that.</p> <p>6 Q And do you see the amount of the 7 success fee is listed as 990,000 Euros?</p> <p>8 A I see that.</p> <p>9 Q Same question. Why was that amount 10 included in the contract?</p> <p>11 A I received that instruction to insert 12 that amount.</p> <p>13 Q And who gave that instruction to you?</p> <p>14 A Most probably Mr. Ferenc Vaczlavik.</p> <p>15 Q Was that at the same time as you 16 received --</p> <p>17 COURT REPORTER: Sorry. Most 18 probably?</p> <p>19 THE WITNESS: Most probably by 20 Mr. Ferenc Vaczlavik.</p> <p>21 BY MR DODGE:</p> <p>22 Q Would you have received the payment 23 amount instruction for both contracts at the same 24 time?</p> <p>25 A Yes.</p>
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<p>1 MR. KOENIG: Objection to form, yes.</p> <p>2 MR. SULLIVAN: Do you have a question 3 pending that's substantive?</p> <p>4 MR. DODGE: I've asked the question. 5 He can answer.</p> <p>6 THE WITNESS: My general feeling was 7 a discomfort feeling.</p> <p>8 BY MR. DODGE:</p> <p>9 Q Now, if you look at Exhibit 100 on 10 page 3359, and on the left side of the page under 11 Remuneration, paragraph 5.1, do you see that?</p> <p>12 A I see that.</p> <p>13 Q And do you see the amount of the -- 14 of the fee is listed there as 980,000 Euros?</p> <p>15 A I see that.</p> <p>16 Q Why was that amount included?</p> <p>17 A My general recollection is that 18 I received the amount information to be put into 19 the agreement.</p> <p>20 Q Who provided that information to you?</p> <p>21 A Most probably Mr. Vaczlavik.</p> <p>22 Q Do you have any understanding as to 23 how that amount was arrived at?</p> <p>24 A No.</p> <p>25 Q If you look at page 8364. This is</p>	<p>1 Q And the same with this contract, did 2 you -- were you given any explanation as to how 3 that amount was arrived at?</p> <p>4 A I don't have a recollection on this.</p> <p>5 Q Do you know if these two consulting 6 agreements in Exhibit 100 were ever signed by 7 anyone?</p> <p>8 A Yes. Later on I received the 9 finalised and signed version of this agreement -- 10 these agreements.</p> <p>11 MR. DODGE: I'm handing you 12 a document that's been marked Exhibit 101.</p> <p>13 Exhibit 101 looks to be about 15 -- 14 15 pages long. The first page appears to be a fax 15 cover sheet on the letterhead of Magyar Telekom, 16 partially in English and -- actually, pretty much 17 all in Hungarian. The second page appears to be an 18 English language translation of the first page. 19 And following the first two pages are -- I believe 20 it's two consulting -- consultancy agreements, or 21 two documents labelled consultancy agreement. The 22 first one begins at page MT-MAK 8392-T, and the 23 second one begins on MT-MAK 8401-T.</p> <p>24 (Exhibit Plaintiff's 101 marked for 25 identification)</p>

26 (Pages 98 to 101)

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<p>1 BY MR. DODGE:</p> <p>2 Q Mr. Herczegh, have you ever seen</p> <p>3 Exhibit 101 before, please?</p> <p>4 A Yes.</p> <p>5 Q And what is it?</p> <p>6 A I am sending out by fax the two</p> <p>7 agreements, two consultancy agreements, one</p> <p>8 regarding the electronic communication law</p> <p>9 activities, the other one relating to the labour</p> <p>10 law activities, still in a draft form, to</p> <p>11 Mr. Szendrei.</p> <p>12 Q If you take a look at the first page</p> <p>13 in Hungarian and the second page in English and</p> <p>14 confirm for me whether or not the English appears</p> <p>15 to be an accurate translation of what was written</p> <p>16 in Hungarian?</p> <p>17 A (Witness reviewed the documents)</p> <p>18 I see one word missing from the English</p> <p>19 translation.</p> <p>20 Q And what word is that?</p> <p>21 A It's in the first sentence of my</p> <p>22 wording. "I am sending you the two requested</p> <p>23 drafts in the attachment". So the word "requested"</p> <p>24 is missing from the English translation.</p> <p>25 Q Okay. So the English translation</p>	<p>1 documents that were attached to your e-mail in</p> <p>2 Exhibit 100?</p> <p>3 A It appears to be the same. I didn't</p> <p>4 check it from word-by-word, but it appears to be</p> <p>5 the same.</p> <p>6 Q Did you ever receive executed</p> <p>7 versions of the two agreements that you sent by</p> <p>8 e-mail and by fax?</p> <p>9 A Later on I received the executed</p> <p>10 versions of these agreements by fax.</p> <p>11 Q I'm now going to hand you two</p> <p>12 documents that have been marked in a previous</p> <p>13 deposition as Exhibits 51 and 52.</p> <p>14 Exhibit 51 is a 9-page document</p> <p>15 labelled consultancy agreement, and it says</p> <p>16 concerning labour law related activities. It has</p> <p>17 a line "concluded on June 1st, 2005", on the first</p> <p>18 page, and then also a fax transmission line on the</p> <p>19 top, 29 August, 2005.</p> <p>20 Exhibit 52 is also a 9-page document.</p> <p>21 It says consultancy agreement concluded on</p> <p>22 June 1st, 2005, concerning Macedonian law on</p> <p>23 electronic communication and its by-laws. It also</p> <p>24 has a facsimile transmission line on top of the</p> <p>25 first page, 29 August, 2005.</p>
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<p>1 says, "I am sending the two drafts in the</p> <p>2 attachment", and it should say what?</p> <p>3 A It should say, "I am sending the two</p> <p>4 requested drafts in the attachment".</p> <p>5 Q Okay. Otherwise, apart from that</p> <p>6 correction, does that -- does it appear to be an</p> <p>7 accurate translation?</p> <p>8 A Yes.</p> <p>9 Q Apart from the page with the</p> <p>10 translation, is Exhibit 101 a copy of a facsimile</p> <p>11 that you sent on or about August 29th, 2005 to</p> <p>12 Mr. Attila Szendrei?</p> <p>13 A Yes.</p> <p>14 Q And why did you send this to</p> <p>15 Mr. Szendrei?</p> <p>16 A Someone asked me to send this out by</p> <p>17 fax to Mr. Szendrei.</p> <p>18 Q Who asked you?</p> <p>19 A I do not have a specific recollection</p> <p>20 on this. It could be that Mr. Vaczlavik requested</p> <p>21 me to send it out by fax, but I'm not 100 per cent</p> <p>22 sure on this. That is why I mentioned that the</p> <p>23 word "requested" is missing.</p> <p>24 Q So are the -- the blank drafts, the</p> <p>25 unsigned drafts in Exhibit 101, are these the same</p>	<p>1 (PREVIOUSLY MARKED: Exhibit 51 was</p> <p>2 tendered to the witness for identification)</p> <p>3 (PREVIOUSLY MARKED: Exhibit 52 was</p> <p>4 tendered to the witness for identification)</p> <p>5 Mr. Herczegh, have you seen exhibit</p> <p>6 51 and 52 before?</p> <p>7 A Yes.</p> <p>8 Q And can you --can you tell me what</p> <p>9 these are?</p> <p>10 A These are the executed versions of</p> <p>11 the consultancy agreement; one covers the labour</p> <p>12 law related consultancy activities, while the other</p> <p>13 covers the electronic communications law related.</p> <p>14 That exhibit -- activities. Both are fully</p> <p>15 executed versions by MakTel and by Chaptex.</p> <p>16 Q Both exhibits 51 and 52 -- scratch</p> <p>17 that.</p> <p>18 Do you recognise -- there's</p> <p>19 a facsimile transmission number at the top of both</p> <p>20 Exhibit 51 and 52, the phone number 90038923126244.</p> <p>21 Do you recognise that number?</p> <p>22 A Yes.</p> <p>23 Q And whose number is that?</p> <p>24 A If we see Exhibit 101, and if we see</p> <p>25 the cover page, and see what is the fax number of</p>

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<p>1 Exhibit 54. (Same handed)</p> <p>2 (PREVIOUSLY MARKED: Exhibit 54 was</p> <p>3 tendered to the witness for identification).</p> <p>4 Exhibit 54 is a 15 to 20-page</p> <p>5 document. The Bates number is MT-MAK 803328</p> <p>6 through -- actually, the numbers are not</p> <p>7 continuous.</p> <p>8 The first two pages are MT-MAK 803328</p> <p>9 and 329. The following pages are MT-MAK 1010427</p> <p>10 through 1010447. The first and second pages of</p> <p>11 Exhibit 54 appear to be an e-mail message from</p> <p>12 Mr. Zsolt Herczegh to Michael Kefaloyannis with</p> <p>13 copies to András Balogh, Tamás Morvai, Ferenc</p> <p>14 Vaczlavik, Péter Dankó, Zoltán Kisjuhász with</p> <p>15 a series of attachments.</p> <p>16 Mr. Herczegh, have you seen</p> <p>17 Exhibit 54 before?</p> <p>18 A Yes.</p> <p>19 Q And can you tell me what it is?</p> <p>20 A This is an e-mail from me to the</p> <p>21 parties listed just beforehand, and this is the</p> <p>22 final version of the documents ready for signing.</p> <p>23 Q And when you say "the documents",</p> <p>24 what document are you referring to?</p> <p>25 A I'm referring to four MakTel</p>	<p>1 A Yes.</p> <p>2 Q Why did you write this in English?</p> <p>3 A Because the instruction was that to</p> <p>4 send out the documents to Mr. Kefaloyannis</p> <p>5 directly.</p> <p>6 Q And was it your practice, when</p> <p>7 writing to Mr. Kefaloyannis, to write to him in</p> <p>8 English?</p> <p>9 A Yes, because, as I understood, he</p> <p>10 doesn't speak Hungarian.</p> <p>11 Q The first sentence you write,</p> <p>12 "I refer to your telephone</p> <p>13 conversation with Mr. Szendrei and Mr. Vaczlavik.</p> <p>14 Further to their request, please find attached the</p> <p>15 modified consultancy agreements to be included</p> <p>16 between StoneBridge AD (instead of MakTel) and</p> <p>17 Chaptex Holdings Limited, and the drafts of the</p> <p>18 applicable performance certificates".</p> <p>19 When you write in the second line</p> <p>20 "Further to their request", do you see that?</p> <p>21 A Yes, I see that.</p> <p>22 Q Who is the "their" referring to?</p> <p>23 A "Their" refers to Mr. Szendrei and</p> <p>24 Mr. Vaczlavik.</p> <p>25 Q Were you given any explanation as to</p>
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<p>1 documents, two consultancy agreements, one is about</p> <p>2 labour law related activities, the second one is</p> <p>3 about the electronic communications activities, and</p> <p>4 two corresponding performance certificate</p> <p>5 protocols.</p> <p>6 Q Is Exhibit 54 a copy of an e-mail</p> <p>7 that you sent on or about August 31st, 2005?</p> <p>8 A Yes, it is.</p> <p>9 Q And can you tell me the similarities</p> <p>10 and differences between the consultancy agreements</p> <p>11 attached to Exhibit 54 and the agreements we looked</p> <p>12 at at Exhibits 51 and 52?</p> <p>13 A The major difference is, compared to</p> <p>14 Exhibits 51 and 52, is the change in the</p> <p>15 contracting party, MakTel changed to StoneBridge.</p> <p>16 Q Who instructed you to change the</p> <p>17 contracting party from MakTel to StoneBridge?</p> <p>18 A Most probably by Mr. Ferenc</p> <p>19 Vaczlavik.</p> <p>20 Q And when -- when -- when were you</p> <p>21 told to make that change?</p> <p>22 A On or about August 31st of 2005.</p> <p>23 Q In your e-mail, Exhibit 54, it's</p> <p>24 addressed to Mr. Kefaloyannis. I notice that this</p> <p>25 e-mail is in English. Was the original in English?</p>	<p>1 why the two consulting agreements needed to be</p> <p>2 changed from MakTel to StoneBridge?</p> <p>3 A At that time I do not recall</p> <p>4 a specific explanation for this.</p> <p>5 Q Did you have any understanding why</p> <p>6 that change had to be made?</p> <p>7 A At that time, no.</p> <p>8 Q If you look at the second paragraph</p> <p>9 of your e-mail, the second sentence, you write,</p> <p>10 "We have double-checked the Statutes</p> <p>11 of StoneBridge which provides that such agreements</p> <p>12 may be signed by the Chief Executive Office or</p> <p>13 StoneBridge alone."</p> <p>14 Do you see that?</p> <p>15 A I see that.</p> <p>16 Q What were you trying to communicate</p> <p>17 there?</p> <p>18 A That I tried to communicate -- let me</p> <p>19 correct one thing, but it's a typo. It's Chief</p> <p>20 Executive Officer.</p> <p>21 Q Not office?</p> <p>22 A Not office.</p> <p>23 Q Mmmm.</p> <p>24 A The goal of this message was that</p> <p>25 there is no specific board approval minute for</p>

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<p>1 this, if the signing party is StoneBridge.</p> <p>2 Q So, in other words, is it correct</p> <p>3 that you double-checked to see whether the board of</p> <p>4 directors of StoneBridge would have to approve</p> <p>5 these two agreements?</p> <p>6 A Yes. It refers to a double-check,</p> <p>7 yes.</p> <p>8 Q You note in your e-mail that Zoltán</p> <p>9 Kisjuhász, the Chief Executive Officer of</p> <p>10 StoneBridge. Do you see that?</p> <p>11 A Yes.</p> <p>12 Q Did you discuss these agreements with</p> <p>13 Mr. Kisjuhász?</p> <p>14 A As I recall, yes.</p> <p>15 Q And what do you recall from those</p> <p>16 discussions?</p> <p>17 A I do not have specific memory or</p> <p>18 recollection on this but, as I recall, I informed</p> <p>19 him that there is a change in the contracting</p> <p>20 parties, and he, at that time or around that time,</p> <p>21 CEO of that company, would be the signing party.</p> <p>22 Q What did Mr. Kisjuhász say to you, if</p> <p>23 anything?</p> <p>24 A I don't have a specific recollection</p> <p>25 on this.</p>	<p>1 see that?</p> <p>2 A I see that.</p> <p>3 Q And did you put that date in for the</p> <p>4 same reason?</p> <p>5 A Yes.</p> <p>6 Q Your e-mail on Exhibit 54 was sent to</p> <p>7 -- you sent it to Mr. Balogh, Mr. Morvai and</p> <p>8 Mr. Dankó.</p> <p>9 Did you have any discussions with any</p> <p>10 of those individuals about the dating of these</p> <p>11 documents.</p> <p>12 A My general recollection is that, that</p> <p>13 I raised the issue of dating to Mr. Dankó.</p> <p>14 Q And is this the conversation that you</p> <p>15 referred to earlier in your testimony?</p> <p>16 A Yes.</p> <p>17 Q And thinking back on your earlier</p> <p>18 testimony on that subject, is there any more detail</p> <p>19 that you didn't give us earlier that you can give</p> <p>20 us now?</p> <p>21 A No.</p> <p>22 Q Did you ever have any discussions</p> <p>23 with Mr. Balogh about the dating of these</p> <p>24 contracts?</p> <p>25 A I don't recall that.</p>
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<p>1 Q When did that conversation take</p> <p>2 place?</p> <p>3 A On or about 31st August, 2005.</p> <p>4 Q If you look at the first page of the</p> <p>5 labour law agreement, which is Bates number MT-MAK</p> <p>6 1010430, the document says "concluded on June 1st,</p> <p>7 2005", do you see that?</p> <p>8 A Yes.</p> <p>9 Q If -- now, this is a document that</p> <p>10 you prepared on -- on or about August 31st, 2005 --</p> <p>11 A Yes.</p> <p>12 Q -- is that right?</p> <p>13 If you prepared it on August 31st,</p> <p>14 2005, why did you put the date June 1st, 2005?</p> <p>15 A As I recall, I received instruction</p> <p>16 for that date.</p> <p>17 Q From whom?</p> <p>18 A Most probably from Mr. Ferenc</p> <p>19 Vaczlavik.</p> <p>20 Q Did you have any understanding as to</p> <p>21 why that date should be chosen?</p> <p>22 A No.</p> <p>23 Q Now, the same thing for the second</p> <p>24 agreement. It's on page 1010439. It has the same</p> <p>25 -- it's concluded on June 1st, 2005, date. Do you</p>	<p>1 Q Did you ever have -- ever have any</p> <p>2 discussions with Mr. Morvai about the dating of</p> <p>3 these contracts?</p> <p>4 A No.</p> <p>5 Q Did you ever have any conversations</p> <p>6 with Mr. Straub, Elek Straub, about the dating of</p> <p>7 these contracts?</p> <p>8 A No.</p> <p>9 Q Was -- what was -- what was</p> <p>10 StoneBridge?</p> <p>11 A My general understanding was that</p> <p>12 StoneBridge is a holding company with a registered</p> <p>13 office in Macedonia. By that time, August 2005, it</p> <p>14 was 100 per cent owned subsidiary of Magyar</p> <p>15 Telekom.</p> <p>16 Earlier there were three shareholders</p> <p>17 in that company, but the other two co-shareholders</p> <p>18 were both out by Magyar Telekom as part of share</p> <p>19 purchase transactions.</p> <p>20 Q You said -- you referred to</p> <p>21 StoneBridge as a -- as a holding company. Do you</p> <p>22 know whether Mr. -- whether Stone -- whether</p> <p>23 StoneBridge had any telecommunications operations</p> <p>24 in Macedonia?</p> <p>25 A I don't have specific information on</p>

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<p>1 that. My understanding was that it's some kind of</p> <p>2 an intermediary holding company, but it also</p> <p>3 belonged to the investments of Magyar Telekom in</p> <p>4 that country.</p> <p>5 Q I'm not sure if I understood your</p> <p>6 answer.</p> <p>7 A I don't --</p> <p>8 Q Let me -- let me try rephrasing it.</p> <p>9 Did you have any understanding in</p> <p>10 2005 whether StoneBridge had any actual operations,</p> <p>11 business operations, in Macedonia or anywhere?</p> <p>12 A I -- I feel that "business</p> <p>13 operation", the term, is too broad, but I would</p> <p>14 narrow it that I do not have specific information</p> <p>15 on that.</p> <p>16 Q Okay.</p> <p>17 A Sorry, if I missed the question.</p> <p>18 Q No, I -- I want to get your testimony</p> <p>19 and that -- I think I have your testimony on that.</p> <p>20 Did you have any understanding why</p> <p>21 StoneBridge was selected to be the -- the main</p> <p>22 party in these agreements?</p> <p>23 A At that time, no.</p> <p>24 Q Did you ask anybody why?</p> <p>25 A No, I don't recall that.</p>	<p>1 A Yes. It appears to be the signed</p> <p>2 versions of those documents.</p> <p>3 Q Did -- in 2005, did you ever receive</p> <p>4 signed versions of the by-laws contract and the</p> <p>5 labour law contract?</p> <p>6 A Let me add one thing to my previous</p> <p>7 statement.</p> <p>8 Q Mmmm.</p> <p>9 A Exhibit 56 and 57 contains, in the</p> <p>10 last pages, the finalised performance certificate</p> <p>11 protocol documents with the heading of Chaptex.</p> <p>12 Q Okay. And so that's both the last</p> <p>13 page of Exhibit 56 and the last page of Exhibit 57?</p> <p>14 A Both the last pages, yes.</p> <p>15 Q And I don't recall if I got an answer</p> <p>16 to my question.</p> <p>17 In 2005, did you ever receive signed</p> <p>18 versions of these two agreements?</p> <p>19 A Yes. I do not have specific</p> <p>20 recollection on this, but probably, yes.</p> <p>21 Q Okay. Now, if you look at the</p> <p>22 signature pages on Exhibit 56, page 43001, and on</p> <p>23 Exhibit 57, page 43010?</p> <p>24 A I see those.</p> <p>25 Q In both cases the contracts say, "In</p>
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<p>1 MR. SULLIVAN: Bob, as you know,</p> <p>2 we're about 10 after 2.</p> <p>3 MR. DODGE: One. I can finish in</p> <p>4 about -- in less than 10 minutes.</p> <p>5 MR. SULLIVAN: Sure. That's fine.</p> <p>6 MR. DODGE: It's your call. I can</p> <p>7 stop if you --</p> <p>8 MR. SULLIVAN: No, go ahead. Let's</p> <p>9 finish. It just felt like 10 after 2. Sorry.</p> <p>10 MR. DODGE: I'm always nervous with</p> <p>11 making projections.</p> <p>12 BY MR. DODGE:</p> <p>13 Q Mr. Herczegh, I'm handing you two</p> <p>14 documents that have been marked previously as</p> <p>15 Exhibits 56 and 57. (Same handed)</p> <p>16 (PREVIOUSLY MARKED: Exhibit 56 was</p> <p>17 tendered to the witness for identification).</p> <p>18 (PREVIOUSLY MARKED: Exhibit 57 was</p> <p>19 tendered to the witness for identification).</p> <p>20 Mr. Herczegh, have you seen Exhibit</p> <p>21 56 and 57 before?</p> <p>22 A Yes.</p> <p>23 Q Do these appear to be the signed</p> <p>24 versions of the two agreements that you sent to</p> <p>25 Mr. Kefaloyannis on August 31st, 2005?</p>	<p>1 witness whereof the authorised representatives of</p> <p>2 the parties hereto have set their hands on June</p> <p>3 1st, 2005". Do you see that?</p> <p>4 A Yes.</p> <p>5 Q Were the versions of these documents</p> <p>6 that you sent out on August 31st, 2005, were those</p> <p>7 already signed?</p> <p>8 A Excuse me?</p> <p>9 Q The drafts of these two agreements</p> <p>10 that you sent out on August 31st, 2005, in</p> <p>11 Exhibit 54, were those already signed?</p> <p>12 A No. Documents attached to Exhibit 54</p> <p>13 are the unsigned Microsoft document versions.</p> <p>14 Q Do you have any understanding whether</p> <p>15 Exhibit 56 and Exhibit 57 were, in fact, signed on</p> <p>16 June 1st, 2005?</p> <p>17 A I do not have specific details what</p> <p>18 were the signing on order and the method; whether</p> <p>19 it was a fax signing or by distributing the</p> <p>20 original version. I see Exhibit 54 and it refers</p> <p>21 to signing original documents.</p> <p>22 Q Okay. In Exhibit 54, these two</p> <p>23 documents you created on August 31st, 2005, is that</p> <p>24 right?</p> <p>25 A Yes.</p>

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<p>1 Q So would it have been possible for</p> <p>2 those documents to have been signed on June 1st,</p> <p>3 2005?</p> <p>4 A Yes.</p> <p>5 Q Yes, it would have been possible?</p> <p>6 A It was impossible.</p> <p>7 Q It was impossible?</p> <p>8 A Im, impossible.</p> <p>9 Q If you look at the performance</p> <p>10 certificates protocols, in Exhibit 56, page 43004,</p> <p>11 and Exhibit 57, 43013. In Exhibit 56, the</p> <p>12 performance certificate protocol is dated</p> <p>13 July 31st, 2005?</p> <p>14 A I see that.</p> <p>15 Q Would it have been possible, given</p> <p>16 your involvement in preparing this document, for</p> <p>17 this performance certificate to have been signed on</p> <p>18 July 31st, 2005?</p> <p>19 A Yes.</p> <p>20 Q It would have been possible?</p> <p>21 A It would have been impossible.</p> <p>22 Q Okay. I need to speak more clearly.</p> <p>23 I think when I said possible you would hear</p> <p>24 impossible.</p> <p>25 A Sorry about that.</p>	<p>1 agreement was entered into first on behalf of one</p> <p>2 subsidiary and then re-executed on behalf of</p> <p>3 another subsidiary?</p> <p>4 A No, I didn't have experience on this.</p> <p>5 MR. DODGE: I'll pass the witness at</p> <p>6 this point.</p> <p>7 We discussed taking a lunch break</p> <p>8 between the direct and cross, so, if no-one</p> <p>9 objects, we can break for lunch now.</p> <p>10 MR. SULLIVAN: That sounds fine.</p> <p>11 VIDEOGRAPHER: Going off the record</p> <p>12 at 1:17 p m.</p> <p>13 (A short recess at 1:17 p m.)</p> <p>14 (Resumed at 2:15 p m.)</p> <p>15 VIDEOGRAPHER: We're now going back</p> <p>16 on the record at 2.15 p m.</p> <p>17 CROSS-EXAMINATION</p> <p>18 BY MR. SULLIVAN:</p> <p>19 Q Good afternoon, Mr. Herczegh.</p> <p>20 A Good afternoon.</p> <p>21 Q My name is Bill Sullivan. I'm a</p> <p>22 lawyer with Pillsbury Winthrop but I represent</p> <p>23 Mr. Balogh.</p> <p>24 I have a few questions for you today</p> <p>25 based on the testimony that you gave under</p>
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<p>1 Q Let me rephrase my question so that</p> <p>2 the record is clear.</p> <p>3 Would it have been possible for this</p> <p>4 performance certificate to have been signed on</p> <p>5 July 31st, 2005?</p> <p>6 A No, it was not possible.</p> <p>7 Q And in Exhibit -- in Exhibit 57, the</p> <p>8 performance certificate is dated August 15th, 2005.</p> <p>9 Would it have been possible for this performance</p> <p>10 certificate to have been signed on August 15th,</p> <p>11 2005?</p> <p>12 A No, it was not possible.</p> <p>13 Q In your experience, in 2005, was it</p> <p>14 a standard policy at Magyar or its subsidiaries to</p> <p>15 back-date performance certificates?</p> <p>16 A I did not --</p> <p>17 MR. KOENIG: I'm going to object.</p> <p>18 I'm going to object to the form of that.</p> <p>19 BY MR. DODGE:</p> <p>20 Q You can answer.</p> <p>21 A I did not have experience on that.</p> <p>22 Q In your history at Magyar Telekom,</p> <p>23 other than -- other than the contracts we've been</p> <p>24 discussing today, did you ever see a circumstance</p> <p>25 in which fully executed -- the same fully executed</p>	<p>1 questioning by Mr. Dodge, and I'm hoping to clarify</p> <p>2 your testimony and enhance my understanding on</p> <p>3 behalf of Mr. Balogh. Is that okay with you?</p> <p>4 A Yes.</p> <p>5 Q All right. During the time that you</p> <p>6 have discussed with Mr. Dodge, and specifically</p> <p>7 regarding your role in connection with the</p> <p>8 consulting agreements while employed by Magyar</p> <p>9 Telekom, you reported to Péter Dankó, is that</p> <p>10 right?</p> <p>11 A Indirectly.</p> <p>12 Q Who was your primary report with</p> <p>13 regard to the consulting agreements that we've</p> <p>14 talked about today?</p> <p>15 A Can you repeat the question, please?</p> <p>16 Q Who was your direct superior</p> <p>17 regarding the consultancy agreements that you</p> <p>18 testified about drafting today?</p> <p>19 A The direct superior at the legal</p> <p>20 area?</p> <p>21 Q In the legal department?</p> <p>22 A At that time, with respect to these</p> <p>23 matters, it was Mr. Dankó.</p> <p>24 Q Thank you. Now, you testified that</p> <p>25 you had some interactions with my client,</p>

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